

P.R. No. 4998/05
Presented by Shri. Jai Prakash
dated 23/7/05

SINGLE BENCH

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IN THE HON'BLE HIGH COURT OF CHHATTISGARH, BILASPUR (C.G.)

WRIT PETITION NO. 4956 /2005

PETITIONER
(NON APPLICANT)

: ✓ Shri Durga Steel Traders,
Through- Proprietor Jai Prakash
Goel, S/o. Prabhu Dayal Goel,
aged about 38 years, R/o. Gopal
Colony Road, Kumhari, P.S.
Kumhari, District Durg (C.G.)

VERSUS

RESPONDENTS
(CLAIMANT)

✓ 1. Apurva Kumar Ghosh, S/o. A.K.
Ghosh, aged about 39 years, R/o
20, M.I.G. Colony, Opposite
Bharat Mata School, Tatibandh,
P.S. Amanaka, Tehsil & District
Raipur (C.G.)

(NON APPLICANT)

✓ 2. Rahmanuddin, S/o Asahaduddin
Through- Shri Durga Steel Traders
Kumhari, Proprietor Jai Prakash
Goel, S/o. Prabhu Dayal Goel, Gopal
Colony Road, Kumhari, P.S.
Kumhari, District Durg (C.G.)

WRIT PETITION UNDER ARTICLES 227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS,
ORDER/ORDERS, OR/AND DIRECTION / DIRECTIONS IN
THE NATURE OF CERTIORARI/ MANDAMUS, OR OF ANY
OTHER APPROPRIATE NATURE.



1. **PARTICULARS OF THE PETITIONER:**

As per cause title.

2. **PARTICULARS OF THE RESPONDENTS :**

As per cause title.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4956/..... सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>19-10-2005</u> Shri M.P.S. Bhatia, counsel for the petitioner. Heard. The facts of the case do not warrant to issue notice to the respondents. Learned counsel for the petitioner submits that the petitioner is the owner of a vehicle namely Maruti Car bearing registration No.C.G.-07/ZD-5877. The said vehicle was involved in an accident, which took place on 19-7-2003. Two motor cycles were also involved in the said accident, and as a result, driver of one motor cycle bearing registration No.M.P.-29/4145, Aashir Choubey died. The claim was filed against the petitioner before the 1st M.A.C.T., Kanker by the dependents/legal heirs of Shri Aashir Choubey. The said Tribunal passed an award on 29-3-2005. The second claim was filed by respondent No.1 before the 5th Additional Motor Accident Claims Tribunal, Raipur which is still pending consideration. The petitioner moved an application for bringing the award dated 29-3-2005 passed in claim case No.52/2004 arising out of the same accident before the 5th Additional Motor Accident Claims Tribunal, Raipur. The Tribunal by order dated 23-8-2005 dismissed the application of the petitioner on the ground that there was delay in making the application and certified copy of the award was also not filed, as such application of the petitioner filed under Order 8 Rule 1-A of the C.P.C. was rejected.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक

W.P. 4956/

सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	After hearing learned counsel for the petitioner and perusing the records, I am of the opinion that the order is erroneous as the delay in filing relevant document, i.e. award passed by other M.A.C.T. arising out of the same accident is a relevant document. Learned counsel for the petitioner submits that the certified copy of the award would be filed. Delay in filing the application is condoned and the petitioner is directed to file certified copy of the award dated 29-3-2005 passed in claim case No.52/2004 by the 1st M.A.C.T., Kanker, within a period of 6 weeks from today. The other application seeking impleadment of the Insurance Company of Motor Cycles bearing Nos. M.P.-29/4145 and C.G.-04/ZE-3411 as necessary party has also been rejected by the same order dated 23-8-2005 on the ground that it is for the claimant to claim compensation amount from a particular person/company. The order is bad on the face of it, as the claimant cannot claim compensation amount from any person who has nothing to do with either ownership of the vehicle involved or who have not insured the vehicle involved in the accident. Only those insurers are liable to compensate who have insured the vehicles, involved in the accident. The order passed by the 5th M.A.C.T., Raipur is erroneous and deserves to be set aside.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4956/... सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In view of the foregoing, the order dated 23-8-2005 is set aside and the application filed by the petitioner under Order 1 Rule 10 of the C.P.C. deserves to be allowed. In view of this order, M.(W.)P.No.3999/2005 and I.A. No.8753/2005 stand disposed of. Parties are entitled for certified copy of this order.	Sd/- Satish K. Agnihotri Judge

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45/10/05